

## REMARKS

### Prior Art Rejections

Claims 1-6 and 8-18 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Barringer. Applicants traverse these rejections.

With regard to claim 1, the Action asserts that the Barringer discloses an arrangement in which the business impact of an outage is measured. Applicants disagree. To support its assertion, the Action cites page 2 of Berringer, specifically the Effectiveness equation set forth therein, which read as follows:

$$\text{Effectiveness} = \text{availability} * \text{reliability} * \text{maintainability} * \text{capability}$$

Contrary to the position taken in the Action, a close inspection of Berringer reveals that Berringer fails to disclose or suggest any arrangement in which a business impact is considered in determining a Figure of Merit for a system. Accordingly, Berringer cannot anticipate claim 1.

Claims 2-11 depend from claim 1 and are allowable for the same reasons. In addition, dependent claims 2-11 add features that are neither disclosed nor suggested by Berringer. By way of example, Berringer neither discloses a business impact weighted availability, reliability, or maintainability measure as recited in claim 2. Further, Berringer neither discloses nor suggests a business impact weight server panic index, as recited in claim 3. Accordingly, Berringer cannot anticipate or render obvious these claims.

With regard to claim 12, the Action again asserts that the Barringer discloses an arrangement in which the business impact of an outage is measured. Applicants disagree. To support its assertion, the Action cites page 9 of Berringer, specifically Fig. 3. Contrary to the position taken in the Action, a close inspection of Berringer reveals that nothing in Fig. 3 or elsewhere in Berringer discloses or suggests any arrangement in which a business impact is considered in determining a Figure of Merit for a system. Accordingly, Berringer cannot anticipate claim 12.

Claims 13-18 depend from claim 1 and are allowable for the same reasons. In addition, dependent claims 13-18 add features that are neither disclosed nor suggested by Berringer. By way of example, Berringer neither discloses an event interface, associating means, and calculating means as recited in claim 15, or the

additional features recited in claims 16-18, which depend from claim 15. Accordingly, Berringer cannot anticipate or render obvious these claims.

**Conclusion**

In view of the above, the application is in condition for allowance, which action is respectfully requested. Should the Examiner be of the opinion that a telephone conference would expedite the prosecution of this case, the Examiner is requested to contact Applicants' attorney at the telephone number listed below.

Although no additional fees are believed due for this Response, any fee deficiency associated with this transmittal may be charged to Deposit Account No. 50-1123.

March 21, 2003

Respectfully submitted,



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**MARKED UP COPY OF AMENDED CLAIMS**

Please amend the claims as follows:

2. (Amended) The method of claim 1,

wherein the FOM includes a business impact weighted availability, reliability,  
or maintainability measure.



**CLEAN COPY OF PENDING CLAIMS**

1. A method of characterizing a system, the method comprising:
  - logging outages of the system;
  - measuring one or more additional indicia associated with each outage, the one or more additional indicia selected from frequency, duration and business impact of the outage; and
  - calculating a Figure of Merit (FOM) based on contributions of each outage weighted in accordance with the associated additional indicia.
2. (Amended) The method of claim 1,  
wherein the FOM includes a business impact weighted availability, reliability or maintainability measure.
3. The method of claim 1,  
wherein the FOM includes a business impact weighted server panic index.
4. The method of claim 1,  
wherein the outage logging is performed on a system-wide basis.
5. The method of claim 1,  
wherein the outage logging is performed for individual subsystems, services and functionality of the characterized system.
6. The method of claim 1,  
wherein the outage logging encodes a level of performance degradation.
7. The method of claim 1, further comprising:  
remotely monitoring the outages and the one or more additional indicia; and  
performing the FOM calculating off-site from the characterized system.

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8. The method of claim 1, further comprising:  
using the FOM as a factor in an employee compensation scheme.
9. The method of claim 1, further comprising:  
evaluating a service level commitment using the FOM.
10. The method of claim 1, further comprising:  
calculating an incentive fee using the FOM.
11. The method of claim 1,  
wherein the characterized system includes an information system.
12. A computer program product encoded in one or more computer readable media and comprising:
  - instructions executable to obtain event data for one or more monitored systems;
  - instructions executable to associate elements of the event data with business impacts thereof on the monitored system; and
  - instructions executable to calculate a Figure of Merit (FOM) including contributions for each event data element weighted in accordance with the associated business impacts.
13. The computer program product of claim 12,  
wherein the event data include one or more of outages, service interruptions and performance degradations of the monitored systems and individual subsystems, services or functionality thereof.

14. The computer program product of claim 12,  
wherein the one or more computer readable medium are selected from the set of a disk, tape or other magnetic, optical, or electronic storage medium and a network, wireline, wireless or other communications medium.

15. A monitoring system comprising:  
an interface to event data for one or more monitored systems or subsystems;  
means for associating elements of the event data with business impacts thereof;  
and means for calculating a Figure of Merit (FOM) including contributions for the event data weighted in accordance with the associated business impacts.

16. The monitoring system of claim 15,  
wherein the means for calculating a Figure of Merit (FOM) includes instructions executable on the monitoring system to weight contributions to an availability, reliability or maintainability index in accordance with the associated business impact of each event on the monitored systems or subsystems.

17. The monitoring system of claim 15,  
wherein the event data include incidence and duration of server panics; and  
wherein the means for calculating a Figure of Merit (FOM) includes instructions executable on the monitoring system to weight contributions of each server panic to a server panic index in accordance a duration thereof.

18. The monitoring system of claim 15, further comprising:  
one or more state tracking tools executable on one or more of the monitored systems to supply the event data.